

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

CHARLES W. EDWARDS,

Plaintiff,

v.

CASE NO. 05-70086

HON. LAWRENCE P. ZATKOFF

MAGISTRATE JUDGE VIRGINIA M. MORGAN

JO ANNE B. BARNHART  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**OPINION AND ORDER**

Plaintiff filed the instant action seeking Social Security disability insurance benefits. This matter is currently before the Court on Magistrate Judge Morgan's Report and Recommendation of August 3, 2005, in which the Magistrate Judge recommends that Plaintiff's Motion for Summary Judgment be GRANTED and Defendant's Motion for Summary Judgment be DENIED. Defendant has filed objections, and Plaintiff has filed a response.

After a thorough review of the transcript, the respective parties' motions, the Report and Recommendation, Defendant's objections, and Plaintiff's Response, this Court will adopt the Report and Recommendation and enter it as the findings and conclusions of this Court.

Accordingly, Plaintiff's Motion for Summary Judgment is GRANTED and Defendant's Motion for Summary Judgment is DENIED.

Furthermore, the Court agrees with Plaintiff that ALJ Donahue's caustic attitude towards Plaintiff's counsel raised questions regarding whether Plaintiff was afforded a full and fair hearing. Therefore, the case shall be heard by a different ALJ on remand. *See Ventura v. Shalala*, 55 F.3d 900, 903-05 (3d Cir. 1995) (case remanded to a different ALJ because of ALJ's hostility towards claimant's representative). The case is REMANDED for further proceedings consistent with this Opinion and Order.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: November 22, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on November 22, 2005.

s/Marie E. Verlinde

Case Manager

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